CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team: CCRB Case #:		☐ Force ☐ Discourt. ☐ U.S.		
Noah Kim		Squad #8	201905253	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Tuesday, 06/04/2019 11:43 PM		847 Flatbush Avenue		70	12/4/2020	7/21/2021
Date/Time CV Reported		CV Reported At: How CV Reported		Date/Tin	Date/Time Received at CCRB	
Tue, 06/04/2019 11:43 PM		IAB Phone		Mon, 06/17/2019 10:53 AM		
Complainant/Victim	ss					
Subject Officer(s)	Shield	TaxID	Command			
1. SGT John Henderson	151	925622	070 PCT			
2. POM Jason Barish	30344	950047	070 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POF Elisa Battista	00178	959481	070 PCT			
Officer(s)	Allegatio	on		Inv	vestigator Recon	nmendation
A.SGT John Henderson	Abuse: Sergeant John Henderson stopped § 87(2)(b) and § 87(2)(b)					
B.POM Jason Barish	Abuse: P	olice Officer Jason Baris	sh threatened to arre	est		
C.POM Jason Barish	Abuse: Police Officer Jason Barish threatened to seize s property.					

Case Summary

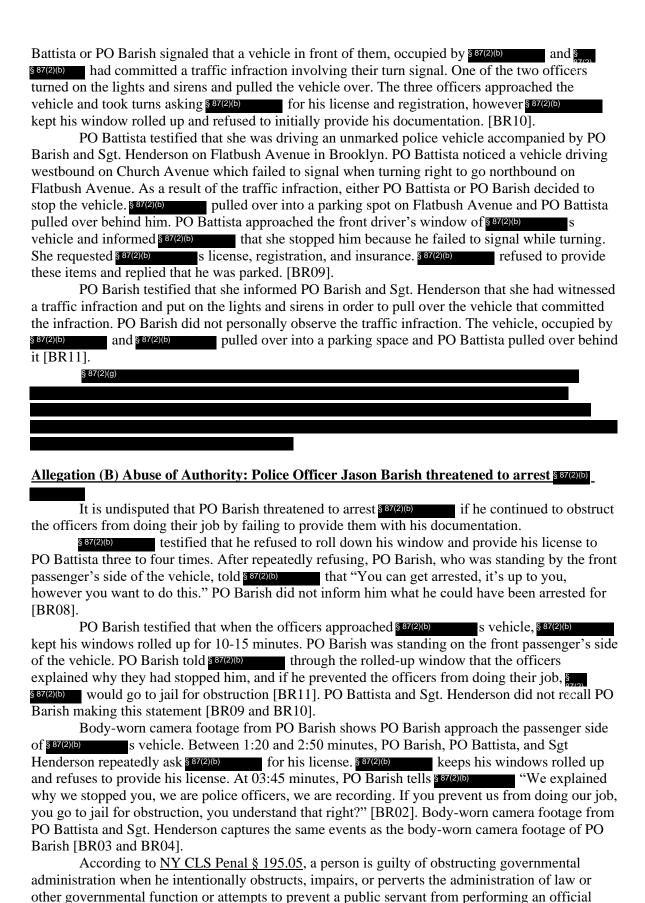
On June 4, 2019, \$87(2)(6) filed this complaint with IAB via phone. On June 17, 2019, the CCRB received the following complaint from IAB via original log number 19-21885 [BR22].

On June 4, 2019, at approximately 11:43 p.m., in the vicinity of 847 Flatbush Avenue in was sitting in the driver's seat of his parked vehicle next to his friend, Sergeant John Henderson, Police Officer Jason Barish, and Police Officer Elisa Battista, all of the 70th Precinct, approached his vehicle. PO Battista approached the front driver's side of the vehicle, informed § 37(2)(b) that the officers had pulled him over for failing to signal into a parking space, and requested his license (Allegation A: Abuse of Authority; refused to roll down his window and provide his license, stating that he was parked. PO Barish, who stood by the front passenger's door of the vehicle, informed that if he prevented the officers from doing their job, he would go to jail for obstruction (Allegation B: Abuse of Authority; \$87(2)(9) PO Barish further stated that if \$\) did not cooperate, the officers would tow his vehicle with him inside of it (Allegation C: Abuse of Authority; §87(2)(9) After a couple of minutes, §87(2)(b) complied with the officers' requests, rolled down his window, and presented his license. He was then released after being warned and admonished. § 67(2)(6) was not arrested or issued a summons as a result of this incident.

Body-worn camera footage (BWC) from several responding officers was obtained for this incident [BR01 through BR07].

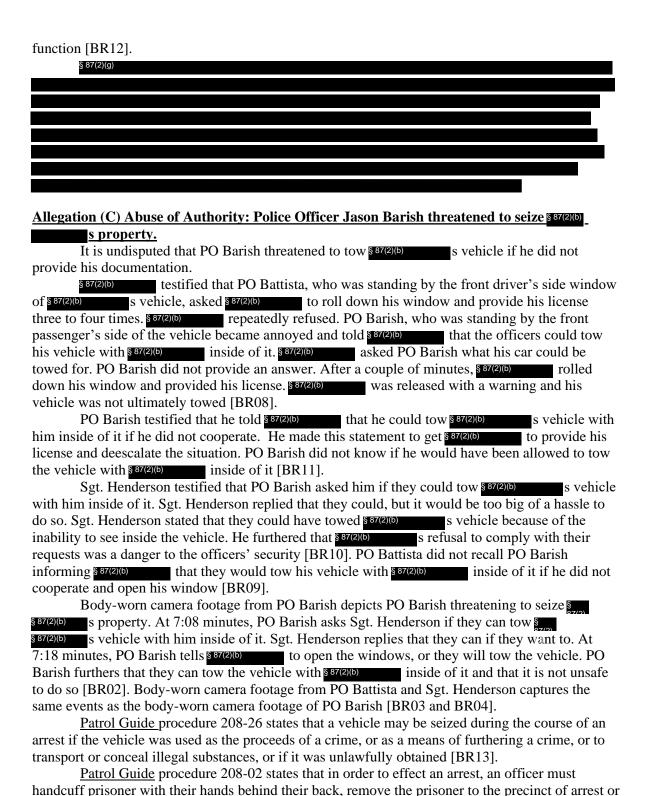
Findings and Recommendations						
Allegation (A) Abuse of Authority: Sergeant John Henderson stopped 887(2)(5) and						
§ 87(2)(b)						
§ 87(2)(g)						
None of the officers' body-worn camera footage captured whether \$87(2)(0) and \$100.000 and \$100.000 and \$100.000 and \$100.0000 and \$100.00000 and \$100.0000 and \$100.00000 and \$100.0000						
were stopped while already parked, or if they committed a traffic infraction and were						
pulled over for failing to use a turn signal [BR01 through BR07].						
Body-worn camera footage from PO Battista shows PO Battista approach the front driver's						
window of \$87(2)(b) s vehicle. At 1:15 minutes PO Battista informs \$87(2)(b) that he is						
being stopped because he did not signal when going into the parking space. § 87(2)(b) replies						
that he is parked [BR03]. Body-worn camera footage from PO Barish and Sgt. Henderson captures						
the same events as the body-worn camera footage of PO Battista [BR02 and BR04].						
On June 4, 2019, at approximately 11:47 p.m., \$87(2)(b) testified that he and \$1.						
s ^{87(2)(b)} were stopped by PO Barish, PO Battista, and Sgt. Henderson. § ^{87(2)(b)} testified that						
he had been sitting in the front driver's seat of his parked car which had been turned off for five to						
ten minutes when the three officers, dressed in plain clothes, approached \$87(2)(b) s vehicle.						
PO Battista came to \$87(2)(b) s window at the front driver's seat of the vehicle and requested						
that he roll his window down so she could speak with him. \$87(2)(6) asked why he was being						
stopped and PO Battista told him that he had not signaled when pulling into the parking spot he wa						
in. §87(2)(b) asked how the officers could have seen him fail to signal if he had been parked in						
the space for a few minutes. §87(2)(b) testified that he signaled into the parking space [BR08].						
Despite the investigation's efforts, a statement from \$87(2)(b) could not be obtained.						
missed two scheduled interviews at the CCRB.						
Sgt. Henderson did not recall which officer was driving the vehicle, however either PO						

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<u>Patrol Guide</u> procedure 221-02 states that officers should utilize de-escalation techniques when consistent with personal safety which may reduce the need to use force and increase the likelihood of gaining the subject's voluntary compliance [BR23].

<u>People v. Alston, 9 Misc. 3d 1046</u> states that a motorist's failure to provide license, registration, or insurance "shall be presumptive evidence that such a person was operating the

designated arrest facility and inform the desk officer of the charge(s) [BR14].

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ehicle ³	"without the required document(s) and would justify the arrest of the motorist [BR24].
	5.5.4-//-9/
	·
•	Civilian and Officer CCRB Histories This is the fifth complaint that \$87(2)(b) has been party to. Throughout these five complaints, 17 allegations have been made [BR15]. This is the first complaint that \$87(2)(b) has been party to [BR16]. PO Barish has been a member of \$87(2)(b) for eight years. In that time, he has been the
	subject of 17 allegations in nine cases, one of which was substantiated. Se7(2)(g) O CCRB 201504513 contained an allegation of abuse of authority: improperly issuance of a summons, which was substantiated and resulted in Command Discipline A [BR17].
•	PO Battista has been a member of \$87(2)(b) for four years. In that time, she has been the subject of five allegations in two cases, none of which were substantiated. \$87(2)(9)
•	Sgt. Henderson has been a member of \$87(2)(b) for 19 years. In that time, he has been the subject of four allegations in two cases, none of which were substantiated.
	(g)
	Mediation, Civil and Criminal Histories
•	declined to mediate this complaint [BR08].
•	According to the New York City Office of the Comptroller, [887(2)(5)] has not filed a Notice of Claim regarding this incident as of November 22, 2019 [BR18].
•	A FOIL request was sent to the New York City Office of the Comptroller for \$87(2)(b)
•	regarding the incident on June 4, 2019 is pending [BR19]. [§ 87(2)(b)] [§\$ 86(1)(3)&(4)] [§ 87(2)(c)]
•	[3 ov (±)(o)) [33 oo(1)(o)a(4)) [3 ov (±)(o)]

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[3 01 (5)(n)] [33 00(1)(3)&(4)][8 67 (2)(6)]		
Squad No.:			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date